

BROOKS KUSHMAN P.C.

1000 Town Center, 22nd Floor
Southfield, Michigan 48075-1238
Telephone: (248) 358-4400 -- Facsimile (248) 358-3351

TO: UNITED STATES PATENT AND TRADEMARK OFFICE

GROUP ART UNIT: _____

NAME: Board of Patent Appeals and InterferencesFAX NO.: (703) 308-7952SERIAL NO.: 09/090,071OUR FILE NO.: LUTA 0177 PUSBOARD OF PATENT
APPEALS &
INTERFERENCES

JUL 27 2004

JULY 27, 2004

This facsimile transmission contains privileged and confidential information intended for Group _____ personnel only. If you are not the intended recipient, you are hereby notified that any dissemination or copying is strictly prohibited. If improperly received, immediately contact the sender whose name and number are listed in this document.

Certificate of Transmission under 37 C.F.R. § 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on July 27, 2004 at facsimile number (703) 308-7952:

Number of Sheets
(including this cover): 9which includes the following documents: Reply Brief mailed November 20, 2003
copy of returned receipt postcard, and Board of Patent Appeals Docketing Notice

Signature

James Kallis
Typed or Printed Name of Attorney/Agent



Brooks Kushman P.C.
1000 Town Center, Twenty-Second Floor
Southfield, Michigan 48075-1238 USA

Tel (248) 358-4400 - Fax (248) 358-3351

www.brookskushman.com

July 27, 2004

VIA FACSIMILE
(703 308-7952)

Board of Patent Appeals and Interferences
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Re: Appeal Number 2004-1569; Paper No. 39
Appellant: Miller, Robin
Serial No. 09/090,071
Our File No.: LUTA 0177 PUS

U.S. BOARD OF PATENT
APPEALS &
INTERFERENCES

JUL 27 2004

Dear Sir:

The Docketing Notice for the above-identified patent application mailed on June 29, 2004 contains an error. The error is that the Notice indicates that no Reply Brief was filed and the Notice further indicates that a Request for Hearing was filed on November 24, 2003.

The Applicant notes that a Reply Brief was filed on November 24, 2003 and that no Request for Hearing was filed. As such, the Docketing Notice erroneously indicates information regarding the Reply Brief and a Request for Hearing. A marked-up Docketing Notice is attached to show the error.

Also attached is a copy of the Reply Brief filed on November 24, 2003 along with a copy of a returned postcard evidencing receipt of the Reply Brief by the Patent Office.

The Applicant requests that the Board consider the Reply Brief as well as the Appeal Brief. The Applicant confirms that there is no Request for Hearing.

Board of Patent Appeals and Interferences
July 27, 2004
Page 2

Patent Office personnel including Program and Resource Administrators are welcome to contact the undersigned if there are any questions or any further material is needed.

Very truly yours,

BROOKSKUSHMAN P.C.

James Kallis

JNK/jr
Enclosures



United States Patent and Trademark Office

Under Secretary of Commerce for Intellectual Property and
 Director of the United States Patent and Trademark Office
 Washington, D.C. 20231 www.uspto.gov

LUTA0177/11567

2004 JUL -6 PM 9:51

JNK

BROOKS KUSHMAN P.C. / LEAR CORPORATION
 1000 TOWN CENTER
 TWENTY-SECOND FLOOR
 SOUTHFIELD MI 48075-1238

Paper No.: 39
 Appeal No: 2004-1569
 Appellant: MILLER, ROBIN MIHEKUM
 Application: 09/090,071

Board of Patent Appeals and Interferences

Docketing Notice

Application 09/090,071 was received from the Technology Center at the Board on 21-May-04 and has been assigned Appeal No: 2004-1569.

A review of the file indicates that the following documents have been filed by applicant:

| | |
|-------------------------------|------------|
| Appeal Brief filed on: | 8/20/03 |
| Reply Brief filed on: | None |
| Request for Hearing filed on: | 11/24/2003 |

In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

BOARD OF PATENT APPEALS AND INTERFERENCES
 UNITED PATENT AND TRADEMARK OFFICE
 P.O. BOX 1450
 ALEXANDRIA, VIRGINIA 22313-1450

The facsimile number of the Board is 703-308-7952. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 703-308-9797 and should be directed to a Program and Resource Administrator.

6657 Morton

MAILED

JUN 29 2004

PATENT OFFICE
 BOARD OF PATENT APPEALS
 AND INTERFERENCES

UPLOADED
 Kd 7/27/04

The "Received" Stamp of the Patent
& Trademark Office imprinted hereon
acknowledges the filing of:



Reply Brief Under 37 C.F.R. § 1.193

DESCRIPTION
OF PAPER:

NAME OF
APPLICANT: Robin M. Miller

INT'L. OR
SERIAL NO.: 09/090,071

MAILING
DATE: November 20, 2003 ATTY: JNK

FILE NO.: LUTA 0177 PUS (11567)



10/21/03 4:28 PM 2003
BROOKS | KUSHMAN
INTELLECTUAL PROPERTY LAW

1000 Town Center, Twenty-Second Floor
Southfield, Michigan 48075-1238 USA

48075-11567

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit: 2674

ROBIN M. MILLER

Examiner: Nguyen, Kevin M.

Serial No.: 09/090,071

Filed: June 3, 1998

For: HEADS-UP DISPLAY WITH IMPROVED CONTRAST

Attorney Docket No.: LUTA 0177 PUS (11567)

REPLY BRIEF UNDER 37 C.F.R. § 1.193

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is in reply to the Examiner's Answer mailed on November 13, 2003. The Examiner's Answer is in response to the Supplemental Appeal Brief III filed by the Applicant on August 14, 2003.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

November 20, 2003
Date of DepositJames N. Kallis
Name of Person Signing

Signature

U.S.S.N. 09/090,071

Atty. Docket No. LUTA 0177 PUS (11567)

Applicant's Reply to (11) Examiner's Response to Argument

The claimed invention generally differs from any combination of Fukatsu and Kadomuki in that a fill pattern for the HUD is selected dependent upon the texture or structural features of the environmental image in order to contrast the HUD relative to the environmental image. The selected fill pattern for the HUD contrasts to the texture and structural features of the environmental image. (See FIGS. 3A and 3B of the Applicant's disclosure). Neither Fukatsu nor Kadomuki teach or suggest selecting a fill pattern for the HUD dependent upon the texture or structural features of the environmental image in order to contrast the HUD relative to the environmental image.

Specifically, Kadomuki does not teach or suggest selecting a fill pattern for a HUD which contrasts to either the texture and structural features of an environmental image. In contrast, Kadomuki teaches controlling the display position, color, or brightness of a HUD dependent upon the color or brightness of an environmental image.

The Examiner posited on pages 3 and 5 of the Examiner's Answer that Kadomuki teaches a HUD including the symbol (B) for selecting an appropriate fill pattern (citing figures 2-5 and pages 9-10) for the symbol dependent upon the landscape, the trees, and the road information in order to contrast sufficiently between the respective colors of the landscape, trees, and the road information relative to a background (citing figures 7-8 and 10 and page 13, line 17 through page 15). The Examiner posited on page 6 of the Examiner's Answer that Kadomuki teaches selecting a fill pattern for the displayed symbol (B) because "the symbol fills and changes pattern of color from bright to dark as shown in figures 3A and 3C' for the HUD dependent upon texture or structural features of the environmental image . . ."

U.S.S.N. 09/090,071

Atty. Docket No. LUTA 0177 PUS (11567)

The claimed invention differs from Kadomuki in two respects. First, the claimed invention determines the texture or structural features of an environmental image as opposed to determining the color or brightness of an environmental image as disclosed by Kadomuki. Second, the claimed invention selects a fill pattern for the HUD symbol as opposed to selecting the position, color, or brightness of the HUD symbol as disclosed by Kadomuki.

With respect to the second respect, the Examiner's contention appears to be that Kadomuki's "symbol fills and changes pattern of color from bright to dark" implies that Kadomuki selects a fill pattern for the HUD symbol. The Applicant disagrees that selecting color and/or brightness is equivalent to selecting a fill pattern. Webster's Dictionary has the following definitions:

the word "fill" as "to take up or occupy all or nearly all the capacity, area, or extent of";

the word "pattern" as being "an arrangement of form; disposition of parts or elements; design";

the word "color" as being "the property of reflecting light of a particular wavelength"; and

the word "brightness" as being "the luminous aspect of a color (as distinct from its hue) which it is regarded as approaching the maximum luminance of pure white or the lack of luminance of pure black."

The Applicant believes that these definitions illustrate that selecting a fill pattern for a HUD symbol is not equivalent to either selecting a color or brightness for the HUD symbol or changing the "pattern of color" of the HUD symbol.

Therefore, the claimed invention is patentable under 35 U.S.C. § 103(a) over Fukatsu and Kadomuki as neither of these references, alone or in combination, teach or suggest

U.S.S.N. 09/090,071

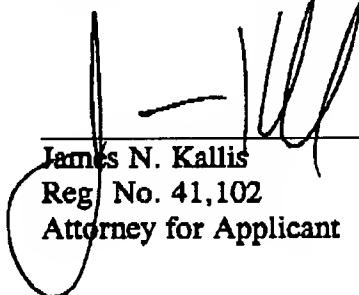
Atty. Docket No. LUTA 0177 PUS (11567)

selecting an appropriate fill pattern for a HUD dependent upon the texture or structural features of an environmental image in order to contrast the HUD relative to the environmental image.

In view of the foregoing, the Applicant respectfully requests that the Appeal Board rule that independent claims 18 and 20 are patentable under 35 U.S.C. § 103(a) over Fukatsu and Kadomuki.

Respectfully submitted,

ROBIN M. MILLER



James N. Kallis
Reg. No. 41,102
Attorney for Applicant

Date: November 20, 2003

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351

COME CELEBRATE THE MAGIC THAT IS.

ORLANDO!!

4 Days / 3 Nights Orlando

3 Days 2 Nights Cocoa Beach

BONUS- First 75 callers receive

4 Days 3 Nights BAHAMAS

Cruise & Stay

all 3 for only

\$199.00!!

CALL NOW!!

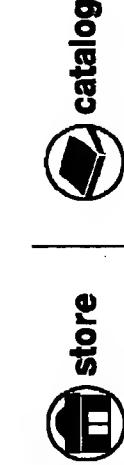
1-800 206 1074

Confirmation # TD12

Children under

18 FREE!

Travel dates not necessary to purchase your vacation package today. Your vacations may be used together or separately. Dates are not block-out dates and vacations may be transferred to someone else. Bahamas vacation is a bonus and to be based on a first come first serve. If you received this fare in error and wish to be refunded, please call toll free 1-866-239-4915



Staples, Inc.
1-800-333-3330 (Phone)
1-800-333-3199 (Fax)
www.staples.com

Order Confirmation

Company Name: US PATENT AND TRADEMARK OFFICE
 Contact Name: DORIS RODGERS
 Phone Number: 703-308-9797
 Address: 1225 SOUTH CLARK ST
 10TH FL RM10C01

ARLINGTON, VA 22202-4301

Staples Order Number: 4072700453 -000
 PO Number (if provided by Customer): P-

| Staples Item Number | Qty | Qty Unit | Description | Unit Price | Extended Price | Expect Delivery On or Before |
|---------------------|-----|----------|---------------------------|------------|----------------|------------------------------|
| 479592 | 10 | EA | TONER PRNTR LSR HP 5P/5MP | 75.99 | 759.90 | 7/28/04 |
| 503707 | 10 | EA | CARTRIDGE LASERJET Q2613A | 71.99 | 719.90 | 7/28/04 |
| 517615 | 5 | PK | INDEX CARD RULD 1 SIDE 3X | 99 | 4.95 | 7/28/04 |

- Thank you for your order! We appreciate your business!
- Staples delivers Monday-Friday between the hours of 9AM and 5PM. Your items are scheduled to arrive on or before the date(s) listed above (pending credit approval).
- Multiple item orders may arrive in several shipments and via different couriers. If your item has not arrived by 3PM the day following the date shown above, please call us at 1-800-333-3330 and we'll be happy to resolve the problem.
- You can check the status of your order at www.staples.com. Just go to the order status page, enter your Order Number and Shipping Zip Code and click "Go".
- Prices displayed are the regular cost of the item and may not reflect coupons or other discounts.